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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

C.S., Petitioner, v. THE SUPERIOR COURT OF SAN DIEGO COUNTY, Respondent;	D075057 (Super. Ct. No. EJ3998A-B)
SAN DIEGO COUNTY HEALTH AND HUMAN SERVICES AGENCY, Real Party in Interest.	

PROCEEDINGS for extraordinary relief after reference to a Welfare and Institutions Code section 366.26 hearing. Gary M. Bubis, Judge. Petition denied.

Dependency Legal Services of San Diego, Law Office of Berta Atkinson, Berta Atkinson and Bernadette Reyes, for Petitioner.

No appearance by Respondent.

Thomas E. Montgomery, County Counsel, Caitlin E. Rae, Chief Deputy County Counsel, and Jesica N. Fellman, Deputy County Counsel, for Real Party in Interest.

C.S. seeks writ review of a juvenile court order setting a hearing under Welfare and Institutions Code section 366.26.[1] He contends substantial evidence does not support the juvenile court's finding that the return of his children to his custody would create a substantial risk of detriment to their physical or emotional well-being. Additionally, he claims substantial evidence does not support the juvenile court's finding that the San Diego County Health and Human Services Agency (the Agency) provided or offered reasonable family reunification services to him. Further, he argues the juvenile court abused its discretion in denying his request for a continuance and additional reunification services. We deny the writ petition.

I

BACKGROUND

A. *Dependency Petition*

In January 2016, the Agency filed a dependency petition on behalf of nine-year-old C.F. and eight-year-old J.F., who lived with their mother, A.F. (Mother). The petition alleged that C.F. and J.F. had suffered, or were at a substantial risk of suffering, serious physical harm or illness under section 300, subdivision (b) due to their exposure to domestic violence between Mother and her boyfriend, as well as Mother's history of substance abuse. At the time the Agency filed the petition, the whereabouts of C.S.

1 All further statutory references are to the Welfare and Institutions Code.

(Father), the alleged father of C.F. and J.F., were unknown. However, family members reported that he had been deported five years earlier, was residing in Mexico, and had not maintained regular contact with or provided financial support for the children.

At the detention hearing, the juvenile court found Father to be the presumed father of C.F. and J.F. The court sustained the findings of the petition at the jurisdiction and disposition hearing, declared C.F. and J.F. dependent children of the court, and ordered reunification services for Mother. C.F. and J.F. were temporarily placed with the maternal great-grandmother and, soon after, with the maternal grandmother.

B. *The First 12-Month Review Hearing*

Shortly before the 12-month review hearing, the Agency learned that Father was being detained at the U.S. Immigration and Customs Enforcement (ICE) detention center in Otay Mesa. While in detention, Father reconnected with C.F. and J.F. through telephone calls and weekly video chats. The maternal grandmother described the interactions between Father and the minors as "positive."

At the 12-month review hearing, the Agency reported that it had been in contact with Father and that Father had requested the appointment of legal counsel for the juvenile dependency proceeding. Despite this request, the juvenile court did not appoint legal counsel for Father at the 12-month review hearing. Instead, it instructed the Agency to make "good faith" efforts to locate the precise whereabouts of Father and, if he still desired legal counsel, to request a special hearing for the purpose of appointing counsel.

C. *The Permanency Hearing*

On April 4, 2017, the juvenile court conducted a contested permanency hearing. The court found that reasonable services had been provided to Mother, but that she had not made adequate progress with her case plan. The court terminated reunification services for Mother and ordered a hearing under section 366.26. At a special hearing held on May 18, 2017, Father's request for counsel was again discussed and, this time, the court appointed counsel for Father, who still remained in ICE detention.

On July 27, 2017, in anticipation of the permanency and planning hearing, the Agency filed a report indicating that Father had been released from ICE detention. Still, the Agency recommended termination of both Mother's and Father's parental rights. In support of its recommendation, the Agency noted that Father had once perpetrated an act of domestic violence against Mother in the presence of the children, had been deported to Mexico, had resided there for five years, "ha[d] not acted in a parental role with the children," and "did not become involved with the case until his whereabouts were recently discovered." The Agency further noted that C.F. and J.F. were, by all accounts, thriving in the care of their maternal grandmother.

Approximately two months after his release from ICE custody, Father was again detained by ICE. As a result, the juvenile court continued the section 366.26 hearing.

D. *Services Provided to Father*

On November 6, 2017—20 months after C.F. and J.F. had been removed from Mother's custody—the juvenile court held a special hearing during which it found that it likely had been "legal error" to delay the appointment of counsel for Father despite his

request for counsel. To remedy the error, the court ordered the Agency to prepare a case plan for Father and provide six months of reunification services to Father.

In reports filed on May 2, 2018 and July 18, 2018, the Agency reported that Father remained in ICE custody and was seeking asylum in the United States. The Agency reported that Father had participated in one or two supervised visits with C.F. and J.F. per month and that Father was "positive" and "affectionate" during the visits. Father consented to C.F. and J.F. remaining in the custody of the maternal grandmother but remained hopeful he would reunify with them. In accordance with his case plan, which consisted of a parenting class and counseling, Father completed numerous programs while in detention, including parenting, social network, communication, domestic violence, motivation, anger management, and 12-step programs.

Notwithstanding these developments, the Agency continued to recommend termination of reunification services. In explaining its recommendation, the Agency reasoned that it was unclear whether Father would be released in San Diego or Mexico due to the uncertainty of his asylum application. The Agency further noted that the "children need[ed] permanency in their lives, which the father [was] not able to provide."

E. *Father's Rerelease from ICE Detention*

On July 30, 2018, Father was again released from ICE detention. The Agency reported that "the first thing the [f]ather did after being released was to go see his children." In a series of addendum reports, the Agency further reported that Father visited C.F. and J.F. "a couple times a month," including overnight stays, and the maternal grandmother described Father as appearing "healthy" and "happy" during the

visits. Father performed one drug test, which was negative, and consistently visited with his psychiatrist to treat mental health issues for which he was being medicated.

The Agency continued to recommend termination of reunification services and the setting of a hearing under section 366.26. The Agency was particularly concerned about Father's living situation. Upon his release from detention, Father slept on the floor of a paternal aunt's studio apartment, a "temporary" situation that was not suitable for C.F. and J.F. At some point, Father left the paternal aunt's apartment and began living with the paternal grandmother, but that too was temporary. The Agency expressed concern that Father "ha[d] yet to demonstrate that he [was] financially and emotionally prepared to care for the children." Further, the Agency noted there was uncertainty whether Father would "be allowed to remain in the United States due to his current asylum case."

Meanwhile, the Agency noted that C.F. and J.F. were "doing really well" and "flourishing" in the care of their maternal grandmother. C.F. and J.F. were "healthy, well groomed, happy, and bonded" with their maternal grandmother, with whom they had resided for nearly three years. The maternal grandmother desired to adopt C.F. and J.F., and they wanted to live with the maternal grandmother. Father himself advised the Agency that he wanted C.F. and J.F. to remain in the custody of the maternal grandmother, as long as he could retain his parental rights. Both minors were "happy" with the maternal grandmother, had access to school, friends, and food, and enjoyed a "consistent and stable lifestyle . . . that they ha[d] never experienced before." In one of its addendum reports, the Agency reported that "[t]he children [were] very much bonded

with their [maternal grandmother]," and "taking that away" and "placing the children with their [F]ather would be a detriment to them."

F. *The Second 12-Month Review Hearing*

On November 26, 2018—approximately 34 months after C.F. and J.F. were first removed from Mother's custody—the juvenile court held a hearing that it characterized as a 12-month contested hearing held "beyond the 24-month date." At the contested hearing, the court received into evidence the Agency's reports and testimony elicited from the two social workers who had been assigned to the minors' case. The social workers testified that they did not provide Father housing referrals as part of the resources they offered. However, they testified that Father never requested housing referrals either.

During closing arguments, counsel for the Agency acknowledged that the quality of visits between Father and the minors was "good," the minors loved their Father, and Father had regularly met with his psychiatrist. However, the Agency's counsel urged the juvenile court to terminate reunification services and schedule a section 366.26 hearing, in part, due to the uncertainty of Father's housing. The Agency's counsel argued that Father "did not reach out to the Agency asking for housing referrals," "slept on the floor in his aunt's house[,] and didn't think forward to what he needed to do and the steps he needed to take to get that housing for his children."

The minors' counsel agreed with the Agency's recommendation. In particular, the minors' counsel stressed that they desired to remain with the maternal grandmother, Father himself had stated that C.F. and J.F. should remain with the maternal grandmother, and Father lacked the stability necessary to support C.F. and J.F.

By contrast, Father's counsel urged the juvenile court to return C.F. and J.F. to Father's custody based on the progress he had demonstrated while in detention, including his completion of a parenting class, as well as the consistency of his visits with C.F. and J.F. Although Father had no job or income, Father's counsel stated that he had received a work permit for employment authorization. Father's counsel requested that, as an alternative to returning C.F. and J.F. to Father's custody, the court could continue the hearing and order the Agency to provide housing-related services.

The juvenile court found that Father had "made substantive progress with the provisions of his case plan," but adopted the Agency's recommendations, terminated reunification services to Father, and ordered a section 366.26 hearing. The court found that return of C.F. and J.F. to Father's custody would create a substantial risk of detriment to their physical and emotional well-being. The court opined that housing was not the "sole issue" motivating the detriment finding, and cited *In re Joseph B.* (1996) 42 Cal.App.4th 890 (*Joseph B.*)—a case in which the court found that return of a dependent minor to his parent would create a substantial risk of emotional harm—as "a strong consideration" supporting the detriment finding. The court stressed that C.F. and J.F. were "in a stable placement" and had been in that placement "for a lengthy period of time." Further, the court expressed unease about the possible consequences if Father were to be deported.

Father filed a petition for writ relief under rule 8.452 of the California Rules of Court, seeking review of the order setting a hearing under section 366.26.

II

ANALYSIS

A. *Statutory Framework*

After a juvenile court finds that a child is a person described by section 300 and assumes jurisdiction, the court conducts a dispositional hearing during which it may, under certain circumstances, declare a dependency, remove custody of the child from his or her parents, and make a general placement order for the child. (Welf. & Inst. Code, § 361; Cal. Rules of Court, rule 5.695(a) & (c).) In most cases, the court also determines at the dispositional hearing what services the child and family need to be reunited and free of court supervision. (*Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 303 (*Bridget A.*); Welf. & Inst. Code, § 361.5, subd. (a); Cal. Rules of Court, rule 5.695(g).) This promotes "the law's strong preference for maintaining the family relationship if at all possible." (*In re Rebecca H.* (1991) 227 Cal.App.3d 825, 843.) Services "may include provision of a full array of social and health services to help the child and family and to prevent reabuse of children." (§ 300.2.) "Reunification services should be tailored to the particular needs of the family." (*In re M.F.* (2019) 32 Cal.App.5th 1, 13 (*M.F.*).)

"If a child has been declared a dependent of the juvenile court and placed under court supervision, the status of the child must be reviewed every six months." (*Bridget A.*, *supra*, 148 Cal.App.4th at p. 303; Welf. & Inst. Code, § 366, subd. (a).) When a child is in an out-of-home placement, the six-month hearing is held under section 366.21, subdivision (e). At that hearing, as well as the 12- and 18-month review hearings, the court must "order the return of the child to the physical custody of his or her parent or

legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child." (§§ 361, subds. (e) & (f), 366.22, subd. (a)(1).) Thus, there is a "statutory presumption that the child will be returned to parental custody" at each six-month review hearing. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 308 (*Marilyn H.*).) A court's detriment finding is reviewed on appeal for substantial evidence. (*Sue E. v. Superior Court* (1997) 54 Cal.App.4th 399, 404 (*Sue E.*).)

" 'Until permanency planning, reunification of parent and child is the law's paramount concern.' [Citation] [¶] At the 12-month review hearing, the court may continue reunification services for another six months only if it believes there is a substantial probability the parent will reunify within that time. [Citation.] On the other hand, if the court finds there is no substantial probability of return within 18 months of the original removal order, the court must terminate reunification efforts and set the matter for a selection and implementation hearing under section 366.26." (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 595-596 (*Katie V.*).)

"Absent extraordinary circumstances, the 18-month review hearing constitutes a critical juncture at which 'the court must return children to their parents and thereby achieve the goal of family preservation or terminate services and proceed to devising a permanent plan for the children.' " (*Katie V.*, *supra*, 130 Cal.App.4th at p. 596.) This strict statutory timeframe reflects a legislative determination that, notwithstanding the law's preference for maintaining familial relationships, "a child's needs for a permanent

and stable home cannot be postponed for an extended period without significant detriment." (*In re Joshua M.* (1998) 66 Cal.App.4th 458, 474; see *Marilyn H.*, *supra*, 5 Cal.4th at p. 308 ["[I]n order to prevent children from spending their lives in the uncertainty of foster care, there must be a limitation on the length of time a child has to wait for a parent to become adequate."].)

B. *Detriment Finding*

Father contends that the juvenile court erred in setting a section 366.26 hearing and declining to return C.F. and J.F. to his custody because there was insufficient evidence to support a finding that the minors' return to Father would create a substantial risk of detriment to their physical or emotional well-being. In particular, Father argues that the court based its detriment finding solely on Father's indigency and lack of stable housing. According to Father, these are not valid considerations upon which dependency and parental rights determinations can be made.

We agree with Father's contention that poverty and lack of suitable housing, standing alone, do not support a finding of substantial detriment. (*In re P.C.* (2008) 165 Cal.App.4th 98, 103-107 [parent's lack of stable housing was not sufficient basis upon which to terminate parental rights]; *In re G.S.R.* (2008) 159 Cal.App.4th 1202, 1212 [same]; see *David B. v. Superior Court* (2004) 123 Cal.App.4th 768, 792 ["We cannot separate parents and their children merely because they are poor."].) We also agree with Father that evidence of his lack of housing contributed to the Agency's recommendation that a section 366.26 hearing be scheduled, as well as the juvenile court's detriment finding. However, we part ways with Father insofar as he claims that his lack of suitable

housing was the sole basis for the detriment finding. Rather, it was but one factor of several that contributed to a broader and more comprehensive finding of likely detriment.

For instance, the Agency, maternal grandmother, and minors all reported concerns that C.F. and J.F. would be unable to access any of their "basic needs" in Father's custody, including food or schooling. The Agency noted in its reports that Father was "emotionally unprepared" to care for C.F. and J.F. and, in fact, Father himself had reported to the investigating social workers that even he wanted C.F. and J.F. to remain in the maternal grandmother's custody. Further, there is no indication in the record that there would be anyone able to care for C.F. and J.F. if they were returned to Father's custody. On the contrary, the paternal aunt informed the Agency she could not provide any housing, childcare, or family support, and the Agency noted that Father had "limited support" from his family, apart from the maternal grandmother.

Substantial evidence also established a substantial risk of emotional detriment if C.F. and J.F. were returned to Father's custody. According to one Agency report, "[t]he children [were] very much bonded" with the maternal grandmother with whom they had resided for 34 months—approximately twice the duration of most juvenile dependency proceedings. The maternal grandmother reported that she had taken care of C.F. and J.F. even before the dependency proceeding, for upwards of "95 [percent] of their lives." Based on interviews with Father, the minors, and the maternal grandmother over a span of several years, one social worker opined that he was concerned about "the emotional impact" a change in custody would have on the minors in light of their bond with the maternal grandmother. Another social worker, who replaced the first social worker

shortly before the second 12-month review hearing, believed that "taking that [bond] away" from the minors and placing them "with their [F]ather would be a detriment to them." Further, C.F. and J.F. repeatedly stated they wanted to remain in the custody of the maternal grandmother. The wishes of the children, though not dispositive, support the court's finding of emotional detriment. (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 974-975; *Joseph B.*, *supra*, 42 Cal.App.4th at pp. 901-902.)

Father contends that the juvenile court erred in finding a substantial risk of physical or emotional detriment because the evidence established that he had completed his case plan and participated in regular visits with C.F. and J.F. "[I]n deciding whether it would be detrimental to return a child, the easy cases are ones where there is a clear failure by the parent to comply with material aspects of the service plan. . . . The harder cases are . . . where the parent *has* complied with the service plan, but for some reason has not convinced a psychologist or social worker that it would be safe to return the child to the parent." (*Blanca P. v. Superior Court* (1996) 45 Cal.App.4th 1738, 1748.) This is one of the harder cases because, as the juvenile court expressly found, Father has followed his reunification plan and demonstrated a commendable interest in reconnecting with his children.

However, "while the court must consider the extent the parent has cooperated with the services provided and the efforts the parent has made to correct the problems which gave rise to the dependency [citation], the decision whether to return the child to parental custody depends on the effect that action would have on the physical or emotional well-being of the child." (*Joseph B., supra*, 42 Cal.App.4th at p. 899; see also *Constance K.*

v. Superior Court (1998) 61 Cal.App.4th 689, 704.) In view of our standard of review (*Sue E.*, *supra*, 54 Cal.App.4th at p. 404 [substantial evidence]), and Father's appellate burden (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 947 [appellant has burden to show lack of substantial evidence to support finding or order]), we cannot conclude that the court erred in finding a risk of detriment. Rather, as discussed *ante*, substantial evidence established a substantial risk that C.F. and J.F. would lack access to basic necessities in Father's custody, Father was unprepared to care for the children, and placement with Father threatened the close bond between the children and the maternal grandmother with whom they had lived for the past 34 months and upwards of 95 percent of their lives.

Based on this evidence, the juvenile court could reasonably find that returning C.F. and J.F. to Father's custody posed a substantial risk of detriment to the minors.[2]

C. *Reasonableness of Services*

Alternatively, Father argues that the juvenile court erred in finding that the Agency offered or provided him reasonable reunification services because the Agency did not assist him in obtaining housing services, which Father describes as the "one thing keeping him from reunifying." As a result of the Agency's alleged failure to provide

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2 As noted *ante*, the juvenile court referenced Father's immigration status on at least one occasion during the hearing below, as did the Agency in its addendum reports. Although substantial evidence supported the juvenile court's finding of detriment, we wish to clarify that "Father's citizenship status is not a legally relevant consideration in these matters." (*In re Jonathan P.* (2014) 226 Cal.App.4th 1240, 1256; see also *In re Sabrina H.* (2007) 149 Cal.App.4th 1403, 1412-1413 [collecting cases in which dependent children were placed in Mexico].)

reasonable reunification services, Father requests reversal of the order setting a section 366.26 hearing and an additional six months of reunification services.

"To support a finding reasonable services were offered or provided, 'the record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult.' [Citation.] The 'adequacy of reunification plans and the reasonableness of the [Agency's] efforts are judged according to the circumstances of each case.' . . . 'The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.' " (*In re J.E.* (2016) 3 Cal.App.5th 557, 565 (*J.E.*).) In reviewing the reasonableness of the services offered or provided, we must remain mindful that "in most cases more services might have been provided and the services provided are often imperfect." (*Katie V., supra,* 130 Cal.App.4th at p. 598.)

"We review a reasonable services finding 'in the light most favorable to the [juvenile] court's order to determine whether there is substantial evidence from which a reasonable trier of fact could make the necessary findings *based on the clear and convincing evidence standard*.' [Citation.] In determining whether there is substantial evidence to support the court's reasonable services finding, we review the record in the light most favorable to the court's finding and draw all reasonable inferences from the evidence to support the findings and orders. We do not reweigh the evidence or exercise independent judgment, but merely determine whether there are sufficient facts to support

the findings of the [juvenile] court. [Citation.] The burden is on the petitioner to show that the evidence is insufficient to support the juvenile court's findings." (*M.F.*, *supra*, 32 Cal.App.5th at p. 14.)

As the Agency concedes, the services provided in this case, as in most cases, were not perfect. Despite the Agency's unquestionable concern with Father's lack of suitable housing, the Agency did not provide Father referrals or other services aimed at stabilizing Father's housing situation. Perfection, however, is not the applicable standard when it comes to assessing the reasonableness of reunification services offered to a parent whose child has been declared a dependent. Rather, on appeal, we ask only whether substantial evidence supports the juvenile court's finding that the Agency provided services that were reasonable under the circumstances. (*Katie V.*, *supra*, 130 Cal.App.4th at pp. 598-599.) On the record before us, we conclude that substantial evidence supports such a finding.

When C.F. and J.F. were taken into protective custody, and for the next year thereafter, Father's whereabouts were unknown despite the Agency's diligent efforts to locate him. After the Agency located Father in January 2017, Father spent 17 of the next 19 months in custody at an ICE detention facility. During this period of detention, the Agency formulated a case plan that consisted of parenting classes and general counseling. The record establishes that the social worker discussed the case plan with Father and attempted to deliver a parenting booklet to him, though an ICE agent prohibited the social worker from delivering the booklet in person and it is unclear from the record whether the delivery was completed. Absent a finding of detriment, a parent's detention by federal immigration authorities does not deprive the parent of his or her right to

reunification services; however, reunification services can only be completed insofar as "access to these services is provided" by the detaining authority. (§ 361.5, subd. (e)(1).)

As noted *ante*, Father made substantial strides in completing his case plan while in ICE detention by participating in a parenting class, in addition to social network, communication, domestic violence, motivation, anger management, and 12-step programs. The maternal grandmother also arranged for video chats between Father and C.F. and J.F., and Father called the children "[three] to [four] times per week."

Following Father's release from detention on July 30, 2018, the Agency conducted a child and family team meeting with Father and the maternal grandmother during which the topics of "housing, childcare, and employment" were discussed. A second social worker replaced the social worker originally staffed to the case a few months after Father's release from detention, offered Father a referral to Family Jewish Services, and scheduled two in-person meetings with Father, neither of which Father attended.

The Agency did not provide Father housing services in the four-month period in which he was released from custody. However, as noted *ante*, housing was not the sole basis underpinning the juvenile court's detriment finding. Rather, Father's preparedness to parent and inability to provide basic necessities, as well as the likely emotional harm they would experience if they were removed from the maternal grandmother's custody, stood as obstacles to reunification—obstacles that the case plan and services were reasonably designed to address. Further, while the reunification services offered to Father were not perfect, the circumstances of Father's year-long absence, 17-month detention, and failure to appear at two scheduled meetings with his social worker must be

accounted for in assessing the reasonableness of the services offered. (*Fabian L. v. Superior Court* (2013) 214 Cal.App.4th 1018, 1029 [services offered to incarcerated father were reasonable in light of the restrictions imposed by the detention authorities].)

In light of these circumstances, we conclude that substantial evidence supported the juvenile court's determination that the services offered by the Agency, albeit imperfect, were reasonable.

D. *Extension Request*

Finally, Father contends that the juvenile court erred in declining to continue the second 12-month review hearing and order additional services under sections 352 and/or 366.21, subdivision (g)(1). In particular, Father contends a continuance was warranted in light of his substantial compliance with the case plan, his positive visits with the minors, and the Agency's purported failure to offer or provide reasonable reunification services.

When a child is not returned to the custody of his or her parent or legal guardian at the 12-month review hearing, section 366.21, subdivision (g)(1) permits the juvenile court to continue services beyond 12 months. However, the court may do so only if it finds a substantial probability "that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian." (§ 366.21, subd. (g)(1).) In making this determination, the court must consider whether the parent or legal guardian has "consistently and regularly contacted and visited with the child," "made significant progress in resolving problems that led to the child's removal from the home," and "demonstrated the capacity and ability both to

complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs." (*Ibid.*)

Additionally, a juvenile court has discretion under section 352 to continue any hearing beyond the time limit within which it is otherwise required to be held, upon a showing of "good cause" and provided that the continuance is not "contrary to the interest of the minor." (§ 352, subd. (a)(1)-(2).) In general, courts invoke section 352 in "extraordinary circumstances 'involv[ing] some external factor which prevented the parent from participating in the case plan.' " (*Denny H. v. Superior Court* (2005) 131 Cal.App.4th 1501, 1510.) "In exercising its discretion under section 352, 'the juvenile court should consider: the failure to offer or provide reasonable reunification services; the likelihood of success of further reunification services; whether [the minor's] need for a prompt resolution of her dependency status outweighs any benefit from further reunification services; and any other relevant factors the parties may bring to the court's attention.' " (*J.E., supra*, 3 Cal.App.5th at p. 564.) A court's denial of a continuance request will not be overturned on appeal absent an abuse of discretion, i.e., where the court has made an "arbitrary, capricious or patently absurd" decision resulting in a "manifest miscarriage of justice." (*In re Karla C.* (2003) 113 Cal.App.4th 166, 179-180.)

Whether viewed through the lens of section 366.21, subdivision (g)(1) or section 352, we conclude that the juvenile court did not err in declining Father's continuance request. While the court characterized the hearing below as a 12-month "beyond the 24-month date," the reality is that C.F. and J.F. had been detained for 34 months by the time the court halted reunification efforts and set a section 366.26 hearing. Father was absent

for 12 of those months and detained for another 17 of the months. Further, while the court ordered that Father receive six months of reunification services, Father in fact received 12 months of reunification services (including while he was detained), due to several continuances that the parties requested and the juvenile court granted.

Under these circumstances, where the minors have been without a permanent placement long past the outer bounds of the statutory 24-month timeframe, the court reasonably could have concluded that an additional continuance would undercut the minors' interests in obtaining a stable and permanent placement. Therefore, the juvenile court did not err in declining Father's request for a continuance and further reunification services.

DISPOSITION

The petition is denied.

BENKE, Acting P. J.

WE CONCUR:

HUFFMAN, J.

O'ROURKE, J.